WP(C) 7820/2005
BEFORE
HON'BLR MR. JUSTICE B.K. SHARMA.

Heard Mr. B.D. Das, learned counsel for the petitioners as well as Mr. A. Thakur, learned counsel representing the Respondent No.6 along with Mr. S. Baruah, leaned counsel representing the Respondent No.5 and Mr. D. Baruah, learned counsel representing the Respondent No.4. Ms R. Chakraborty, learned State counsel represents the State respondents.

The petitioners are the residents of Ward No.14, Malow Ali, Jorhat. Their grievance is that the authorities as well as the Respondent No.6 violated the provisions of the Assam Health Establishments Act, 1993; the Assam Bio-Medical Waste (Management & Handling) Rules, 1998; the Environment (Protection) Act, 1986 and the Zoning Regulations framed under the Assam Town & Country Planning Act, 1959 while granting and obtaining provisional license in favour of the Respondent No.6 in permitting to run Nursing Home stated to be adjacent to the residences of the petitioners.

The Respondents No.2, 4 and 6 have filed counter affidavit denying the contentions raised in the writ petition. It has been agreed at the Bar that it is the Respondent No.2, who is the principal authority towards granting or not granting license towards running a Nursing Home. It is further submitted that the No Objection Certificate (NOC) is also required to be obtained from the Pollution Control Board as well as Jorhat Municipal Board i.e. the Respondents No.4 and 5 respectively.

The Respondent No.6 has been granted the license for establishing Nursing Home, copy of which is annexed as Annexure-7 to the writ petition. The license is stated to be provisional . As regards the N.O.C. from the Jorhat Municipal Board i.e. the Respondent No.4, the said authority in its affidavit has stated that the Board in its meeting held on 28.4.2006 decided that since the matter was pending before this Court, the issuance of the N.O.C. be kept in abeyance. So far as the Pollution Control Board is concerned, admittedly, the NOC has not been issued, but it is the stand of the petitioners that the said authority has accepted the requisite fees on 7.5.2004 and thereafter, the annual renewal fees have also been accepted. The Respondent No.6 has also referred to Annexure-E(i) enquiry report submitted by the Joint Director of Health Services, Jorhat to the Deputy Commissioner, Jorhat.

Thus, while it is the case of the petitioners that the action on the part of the respondents is in violation of the relevant provisions of the Act and the Rules, it is the stand of the respondents that they have proceeded with the matter in accordance with law. Presently, the Respondent No.6 has been running the Nursing Home.

In view of the above and also having regard to the fact that the license has been granted in favour of the Respondent No.6 provisionally, the matter is remanded back to the authorities, more particularly, the Respondent No.2 to take a decision in the matter, as to whether the Respondent No.6 is entitled to the grant of final license for running the Nursing Home. Similarly, the Jorhat Municipal Board as well as the Pollution Control Board shall also take a decision in the matter in accordance with rules. The said authorities shall decide the matter as expeditiously as possible, preferably within 3 (three) months and if need be, the parties shall be given adequate opportunity of being heard.

With the above direction, the writ petition is disposed of.